

mission objectives which require officers of such competitive category in the grade to which the board will recommend officers for promotion, (2) the estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted, (3) the number of officers authorized by the Secretary of the military department concerned to serve on the reserve active-status list in the grade and competitive category under consideration, and (4) any statutory limitation on the number of officers in any grade or category (or combination thereof) authorized to be on the reserve active-status list.

(b) **BELOW-THE-ZONE SELECTIONS.**—(1) The Secretary of the military department concerned may, when the needs of the armed force concerned require, authorize the consideration of officers in the grade of captain, major, or lieutenant colonel on the reserve active-status list of the Army or Air Force, in a grade above first lieutenant on the reserve active-status list of the Marine Corps, or in a grade above lieutenant (junior grade) on the reserve active-status list of the Navy, for promotion to the next higher grade from below the promotion zone.

(2) When selection from below the promotion zone is authorized, the Secretary shall establish the number of officers that may be recommended for promotion from below the promotion zone in each competitive category to be considered. That number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion in such competitive category, except that the Secretary of Defense may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary of Defense determines that the needs of the armed force concerned so require. If the maximum number determined under this paragraph is less than one, the board may recommend one officer for promotion from below the promotion zone.

(3) The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers that the board is authorized to recommend for promotion under subsection (a).

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2936.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5901 of this title, prior to repeal by Pub. L. 103-337, §1629(b)(2).

§ 14308. Promotions: how made

(a) **PROMOTION LIST.**—When the report of a selection board convened under section 14101(a) or 14502 of this title is approved by the President, the Secretary of the military department concerned shall place the names of all officers selected for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of seniority of those officers on the reserve active-status list. A promotion list is considered to be established under this section as of the

date of the approval of the report of the selection board under the preceding sentence.

(b) **PROMOTION; HOW MADE; ORDER.**—(1) Officers on a promotion list for a competitive category shall be promoted in the manner specified in section 12203 of this title.

(2) Officers on a promotion list for a competitive category shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary of the military department concerned. Except as provided in section 14311, 14312, or 14502(e) of this title or in subsection (d) or (e), promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted.

(3) Officers to be promoted to the grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary of the military department concerned.

(4)(A) Officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who are on an approved all-fully-qualified-officers list shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary concerned. Such promotions shall be in the manner specified in section 12203 of this title.

(B) An all-fully-qualified-officers list shall be considered to be approved for purposes of subparagraph (A) when the list is approved by the President. When so approved, such a list shall be treated in the same manner as a promotion list under this chapter and chapter 1403 of this title.

(C) The Secretary of a military department may make a recommendation to the President for approval of an all-fully-qualified-officers list only when the Secretary determines that all officers on the list are needed in the next higher grade to accomplish mission objectives.

(D) For purposes of this paragraph, an all-fully-qualified-officers list is a list of all officers on the reserve active-status list in a grade who the Secretary of the military department concerned determines—

(i) are fully qualified for promotion to the next higher grade; and

(ii) would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title upon the convening of such a board.

(c) **DATE OF RANK.**—(1) The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d)(2) of this title.

(2) The date of rank of an officer appointed to a higher grade under this section may be adjusted in the same manner as an adjustment may be made under section 741(d)(4) of this title in the date of rank of an officer appointed to a higher grade under section 624(a) of this title. In any use of the authority under the preceding sentence, subparagraph (C)(ii) of such section shall be applied by substituting “reserve active-status list” for “active-duty list”.

(3) Except as provided in paragraph (2) or as otherwise specifically authorized by law, a reserve officer is not entitled to additional pay or allowances if the effective date of the officer's

promotion is adjusted to reflect a date earlier than the actual date of the officer's promotion.

(d) **OFFICERS WITH RUNNING MATES.**—An officer to whom a running mate system applies under section 14306 of this title and who is selected for promotion is eligible for promotion to the grade for which selected when the officer who is that officer's running mate becomes eligible for promotion under chapter 36 of this title. The effective date of the promotion of that officer shall be the same as that of the officer's running mate in the grade to which the running mate is promoted.

(e) **ARMY RESERVE AND AIR FORCE RESERVE PROMOTIONS TO FILL VACANCIES.**—Subject to this section and to section 14311(e) of this title, and under regulations prescribed by the Secretary of the military department concerned—

(1) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) of this title or a board convened under section 14502 or chapter 36 of this title may be promoted at any time to fill a vacancy in a position to which the officer is assigned; and

(2) an officer in a grade below colonel in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a vacancy promotion board convened under section 14101(a) of this title may be promoted at any time to fill the vacancy for which the officer was selected.

(f) **EFFECTIVE DATE OF PROMOTION AFTER FEDERAL RECOGNITION.**—The effective date of a promotion of a reserve commissioned officer of the Army or the Air Force who is extended Federal recognition in the next higher grade in the Army National Guard or the Air National Guard under section 307 or 310 of title 32 shall be the date on which such Federal recognition in that grade is so extended.

(g) **ARMY AND AIR FORCE GENERAL OFFICER PROMOTIONS.**—A reserve officer of the Army or the Air Force who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in the Army Reserve or the Air Force Reserve, as the case may be, in that grade.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2937; amended Pub. L. 105-85, div. A, title V, §514(c), Nov. 18, 1997, 111 Stat. 1732; Pub. L. 107-107, div. A, title V, §§505(b)(1), 506(b), Dec. 28, 2001, 115 Stat. 1086, 1089; Pub. L. 109-364, div. A, title V, §511(d)(2), Oct. 17, 2006, 120 Stat. 2183.)

PRIOR PROVISIONS

Provisions similar to those in subssecs. (a), (d), and (f) of this section were contained in sections 3385, 5902(a) to (c), and 8374 of this title, prior to repeal by Pub. L. 103-337, §1629(a)(1), (b)(2), (c)(1).

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-364 inserted at end “A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence.”

2001—Subsec. (b)(4). Pub. L. 107-107, §505(b)(1), added par. (4).

Subsec. (c)(2). Pub. L. 107-107, §506(b)(1)(B), added par. (2). Former par. (2) redesignated (3).

Subsec. (c)(3). Pub. L. 107-107, §506(b)(1)(A), (2), redesignated par. (2) as (3) and inserted “provided in paragraph (2) or as otherwise” after “Except as”.

1997—Subsec. (e)(2). Pub. L. 105-85, §514(c)(1), inserted “a grade below colonel in” after “an officer in”.

Subsec. (g). Pub. L. 105-85, §514(c)(2), inserted “or the Air Force” after “A reserve officer of the Army”, substituted “in the Army Reserve or the Air Force Reserve, as the case may be, in that grade” for “in that grade in a unit of the Army Reserve that is organized to serve as a unit and that has attained the strength prescribed by the Secretary of the Army”, and struck out at end “A reserve officer of the Air Force who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in the Air Force Reserve in that grade.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-364 effective Oct. 17, 2006, and applicable with respect to officers on promotion lists established on or after such date, see section 511(e) of Pub. L. 109-364, set out as a note under section 624 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Subsec. (c)(2) of this section applicable with respect to any report of a selection board recommending officers for promotion to the next higher grade that is submitted to the Secretary of the military department concerned on or after Dec. 28, 2001, and Secretary of the military department concerned may apply subsec. (c)(2) of this section in the case of an appointment of an officer to a higher grade resulting from a report of a selection board submitted to the Secretary before Dec. 28, 2001, if the Secretary determines that such appointment would have been made on an earlier date that is on or after Oct. 1, 2001, and was delayed under the circumstances specified in section 741(d)(4) of this title, see section 506(c) of Pub. L. 107-107, set out as a note under section 741 of this title.

§ 14309. Acceptance of promotion; oath of office

(a) **ACCEPTANCE.**—An officer who is appointed to a higher grade under this chapter shall be considered to have accepted the appointment on the date on which the appointment is made unless the officer expressly declines the appointment or is granted a delay of promotion under section 14312 of this title.

(b) **OATH.**—An officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this chapter.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2938.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3394 and 8394 of this title, prior to repeal by Pub. L. 103-337, §1629(a)(1), (c)(1).

§ 14310. Removal of officers from a list of officers recommended for promotion

(a) **REMOVAL BY PRESIDENT.**—The President may remove the name of any officer from a promotion list at any time before the date on which the officer is promoted.

(b) **REMOVAL FOR WITHHOLDING OF SENATE ADVICE AND CONSENT.**—If the Senate does not give its advice and consent to the appointment to the